

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

JOHN DAVID O'NEILL,)	
)	
Plaintiff,)	No. 2:18-cv-01517-DCN
)	
vs.)	ORDER
)	
THE UNITED STATES DEPARTMENT OF JUSTICE, CRIMINAL DIVISION,)	
)	
Defendant.)	
)	

This matter is before the court on defendant The United States Department of Justice, Criminal Division's ("the government") motion for summary judgment, ECF No. 30, and plaintiff John David O'Neill's ("O'Neill") motion to compel and for sanctions, ECF No. 31. Pursuant to the court's ruling at the hearing on the motions, the court denies without prejudice the government's motion for summary judgment due to the incomplete nature of the government's search and review of potentially responsive documents. According to the Declaration of Peter Sprung, the government has identified approximately 14,720 records that are potentially responsive, and the government's search is ongoing. Sprung Decl. ¶ 16. In its motion for summary judgment, the government only addresses 762 pages of responsive documents. *Id.* ¶ 19.

Once the government's search and review are complete, the court orders the government to produce a Vaughn index for any documents it seeks to withhold under a Freedom of Information Act ("FOIA") exemption. The court acknowledges that when the government claims Exemption 7(A), as the government does here, it "may justify nondisclosure in a generic fashion." Spannaus v. U.S. Dep't of Justice, 813 F.2d 1285,

1288 (4th Cir. 1987). However, if the government claims exemptions other than Exemption 7(A), as it did in its motion for summary judgment, this generic approach is insufficient. See Ayyad v. Internal Revenue Serv., 2018 WL 704849, at *10 (D. Md. Feb. 2, 2018) (explaining that justifications for nondisclosure under Exemption 7(A) do not require particularity, unlike justifications for nondisclosure under other FOIA exemptions). As for O'Neill's motion to compel and for sanctions, the court finds that sanctions against the government are not appropriate at this time.

For the foregoing reasons the court **DENIES** without prejudice the government's motion for summary judgment and **DENIES** O'Neill's motion to compel and for sanctions.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', is written over a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

March 25, 2019
Charleston, South Carolina